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TRICIA D. AGOSTINO

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Clifford Chance Rogers &amp; Wells LLP

Docket No. 5677-111

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Leo J. Romanczyk, Jr. et al.

Filed: April 11, 2001

Group Art Unit: 1651

Serial No: 09/833,134

Examiner: C. Tate

For: EXTRACTION OF STEROLS FROM COCOA HULLS

Commissioner for Patents  
Washington, D.C. 20231**RESPONSE**

Sir:

This is submitted in response to Paper No. 8 mailed August 6, 2002. A response is due on Friday, September 6, 2002. Filing by fax on Wednesday, September 4, 2002 is timely.

In the communication mailed August 6, 2002, the Examiner pointed out that the reply of August 6, 2002 was not fully responsive to the prior Restriction Requirement because Applicants' attorney elected two Inventive groups of claims instead of one Inventive Group of claims. The Examiner advised Applicants that a response to the Restriction Requirement, to be complete, must include an election of one particular Inventive Group to be examined even though the requirement is traversed. The Examiner required Applicants to elect one inventive

Amendment  
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NYB 1365298.1

Group from the three Groups of record, if necessary with traverse, e.g., by stating why Applicants believe Groups I and II are directed to the same invention.

Office Action – July 2, 2002

In the Office Action mailed July 2, 2002, the claims were restricted into the following groups:

I. Claims 2, 11, and 15-23, drawn to a cocoa oil product comprising phytosterols and tocopherols (e.g., tocopherols) and a method of preparing a cocoa oil comprising phytosterols and tocopherols, classified in class 514, subclass 458, for example.

II. Claims 1, 3-10, 12-13, and 24-28, drawn to a cocoa oil comprising phytosterols and therapeutic uses thereof, classified in class 424, subclass 776, for example.

III. Claim 14, drawn to a cocoa oil comprising ferulated phytosterols for use as an antioxidant, classified in class 426, subclass 541, for example.

Response – August 6, 2002

In this response, it was respectfully pointed out that Claims 1-13 and 15-23 are all directed to a cocoa oil product comprising phytosterols or phytosterols and tocopherols and tocotrienols and a method for their preparation, and that Claims 1, 3-10, and 12-13 should have been included in Group I, not Group II. It was pointed out that only Claims 24-28, drawn to uses of the cocoa oil in food (Claim 24), dietary supplement (Claim 25), pharmaceutical (Claims 26 and 27), and cosmetic (Claim 28) should be included in Group II and that Claim 14 drawn to a ferulated phytosterol for use as an antioxidant is correctly in Group III.

Response - 9/3/02

Applicant elects with traverse Claims 2, 11 and 15-23. It is respectfully submitted that searching Claims 1, 3-10, 12-13, and 24-28 (directed to coconut oil comprising (a) phytosterol or (b) phytosterols and tocopherol and tocotrienols and a method for their preparation) additional Class 424 and Subclass 776 should be carried out to ensure the patentability of the cocoa oil claims comprising phytosterols.

Date: September 3, 2002

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Respectfully submitted,

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Attorney Docket No.5677-091

**TELECOPIER TRANSMISSION COVER SHEET**

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Examiner: **Christopher Tate**

Group Art Unit: **1651**

Paper(s) Being Transmitted: **RESPONSE**

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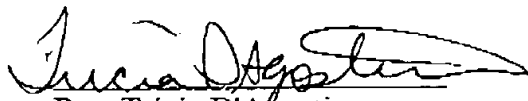
**COMMENTS:**

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Serial No.: **09/833,134**

Filed: **April 11, 2001**

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By: **Tricia D'Agostino**

Date: **September 4, 2002**

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